

CITY OF MARGATE, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARGATE,
FLORIDA, AMENDING APPENDIX-A ZONING;
SECTION 3.22. ALCOHOLIC BEVERAGES (VII)
ALLOCATION OF LICENSES BY DISTRICT AND
CATEGORY; PROVIDING FOR DELETION OF
ALLOCATION OF LICENSES BY DISTRICTS;
PROVIDING FOR DISTANCE RESTRICTIONS;
PROVIDING FOR HOURS OF SALE FOR 2APS AND
3APS CLASSIFICATION FROM 7:00 A.M. TO
12:00 MIDNIGHT SUNDAY THROUGH SATURDAY;
PROVIDING FOR APPLICATION PROCEDURES;
PROVIDING FOR DEFINITIONS; PROVIDING FOR
SEVERABILITY; PROVIDING FOR
CODIFICATION; PROVIDING FOR AN EFFECTIVE
DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF
MARGATE, FLORIDA:

SECTION 1: The Code of Ordinances of the City of
Margate, Florida, Appendix-A Zoning, Section 3.22.
Alcoholic Beverages, (VII) Allocation of licenses by
district and category, is hereby amended to read as
follows¹:

Section 3.22. - Alcoholic beverages.

(I) *Definitions.*

(A) The terms, words and phrases used in this chapter shall
be defined as those words, terms and phrases are defined in
the alcoholic beverage law of the State of Florida, known as

¹CODING: Words in ~~struck through~~ text are deletions from
existing text, words in underscoring text are additions to
existing text, and **shaded** text are changes between First and
Second Readings.

1 Chapters 561, 562, 563, 564, 565, 567 and 568, Florida
2 Statutes, as amended.

3
4 (B) The term "license" as used in this chapter shall be
5 defined as the city approval as is required by the rules and
6 regulations of the state beverage department.

7 (II) *State beverage law adopted by reference; enforcement*
8 *authority of city police.*

9
10 (A) The provisions of Chapters 561, 562, 563, 564, 565,
11 567, and 568 ~~and 569~~, Florida Statutes, relating to
12 alcoholic beverages, except those sections thereof which are
13 by their nature inapplicable to municipalities, are hereby
14 adopted as a part of this Code as fully as if set forth
15 herein in full.

16 (B) The city police department shall be charged with the
17 duty of enforcing the provisions hereof and shall be vested
18 with such power and authority as necessary in enforcing the
19 beverage laws of the city and state in carrying out their
20 duties hereunder.

21 (III) *Public consumption, possession, prohibited.*

22 (A) (1) It shall be unlawful for any person to drink or
23 consume alcoholic beverages, or have in his/her
24 possession any open container containing alcoholic
25 beverages, including liquor, beer, or wine, in any
26 commercial establishment ~~of bottle club~~ as defined by
27 state law, on any public street, in any public park, in
28 any public or quasipublic parking lot, or in any other
29 public place, unless such place is licensed by the ~~city~~
30 State of Florida for the sale of alcoholic beverages.

31 (2) For temporary City or Community Redevelopment
32 Agency events, or outdoor promotional events approved
33 by the Development Review Committee in accordance with
34 the criteria contained in Section 3.24, outdoor sales
35 and/or consumption of alcoholic beverages shall be
36 permitted where:

37 ~~1-~~ (a) The sale and/or consumption of alcoholic
38 beverages in a designated outdoor area is approved
39 by the City Commission or the Development Review
40 Committee; and

41 ~~2-~~ (b) A license from the State of Florida for said
42 temporary event has been obtained

1 (3) This section shall not be construed to permit
2 drinking or consumption of any of the beverages listed
3 herein in public parking lots or in any other public
4 place wherein adjacent stores may be licensed by the
5 Ceity for the sale of alcoholic beverages.

6 (B) For this section, the definition of quasipublic shall
7 be that private property where a private owner permits the
8 general and common use of a street or way by the public
9 such as parking lots, shopping centers, and those areas
10 where the public is deemed to be invited. Quasipublic shall
11 also include those portions of private property which are
12 parking lots, streets, or common areas of apartment
13 buildings, condominiums, mobile home parks, and like
14 organizations, where the private owner or organization in
15 control of said areas has requested ~~form~~ from the Ceity in
16 writing that this section be enforced.

17 ~~(C) Reserved.~~

18 ~~(D)~~ (C) Those outdoor portions of any established golf
19 course of which access is limited to only patrons who have
20 paid the appropriate admission fees shall be considered
21 private property and therefore exempt from the prohibitions
22 of this section. The sale and consumption of alcoholic
23 beverages shall be permitted in these areas upon approval
24 of the Ceity Ceommission.

25 (IV) *Exemption of vendors, etc., from city alcoholic*
26 *beverage license tax.*

27 All vendors, distributors, manufacturers, [and] exporters of
28 alcoholic beverages, as well as clubs and caterers, shall be
29 exempt from the payment of a Ceity alcoholic beverage
30 license tax; provided, this exemption shall not affect the
31 levy of any ~~occupational license~~ Local Business Tax Receipt
32 or other Ceity license authorized by state law.

33 (V) *Authority of administration.*

34 The Director of Economic Development, or designee, is hereby
35 authorized and directed to execute approvals for applicants
36 for various types of beverage licenses pursuant to the
37 provisions of this section.

38 (VI) *Reserved ~~Enumeration of districts for allocation~~*
39 *~~of licenses; adoption of alcoholic beverage district map.~~*

40 ~~The city is hereby divided into five (5) alcoholic beverage~~
41 ~~districts to be designated Districts A, B, C, D and E. The~~
42 ~~districts enumerated herein are defined as follows:~~

~~District A: All that part of the City of Margate lying west of the center line of the One Mile Canal; south of the center line of Royal Palm Boulevard; and north of the center line of the Cypress Creek (C-14) Canal.~~

~~District B: All that part of the City of Margate lying west of the center line of State Road 7 and north of the center line of Royal Palm Boulevard.~~

~~District C: Bounded on the north by the center line of Royal Palm Boulevard; on the east by the center line of State Road 7; on the south by the center line of the Cypress Creek (C-14) Canal; and on the west by the center line of the One Mile Canal.~~

~~District D: All that part of the City of Margate lying east of the center line of State Road 7; and north of the center line of the Cypress Creek (C-14) Canal.~~

~~District E: All that part of the City of Margate lying south of the center line of the Cypress Creek (C-14) Canal.~~

~~(VII) Reserved Allocation of licenses by district and category.~~

~~(A) The allocation of the various general categories of alcoholic beverage licenses shall be in accordance with the following schedule showing the category of alcoholic beverage licenses allocated per district. No approval shall be granted which would allow licenses in excess of the number allocated per category or allocated per district. In granting or denying a request for an initial, transfer or renewal alcoholic beverage license allocation, the Economic Development Department shall grant alcoholic beverage license allocations to only those establishments that are in compliance with the zoning provisions of this City Code.~~

~~(B) All applications or approvals for allocation of various categories of alcoholic beverage licenses pursuant to this section shall expire on the ninetieth day after application for said license is made unless the following shall transpire:~~

~~(1) That the license issued under this section is actively being utilized for the sale and/or consumption of alcoholic beverages; or~~

~~(2) A bona fide lease for a business contemplating the dispensing of alcoholic beverages pursuant to the license has been executed; or~~

~~(3) Commencement of construction (the granting and maintenance of a building permit) of a building owned by the applicant of the above alcoholic beverage license contemplating use of said alcoholic beverage license.~~

License	Districts				
	A	B	C	D	E
2 APS Beer and wine Package sales only	6	11	16	21	10
3 APS Beer, wine and liquor Package sales only	3	4	3	5	3
2 COP Beer and wine consumed on premises	9	16	16	30	14
4 COP Beer, wine and liquor consumed on premises	6	9	7	15	7
4 COP SRX Beer, wine and liquor consumed on premises of 4,000 sf or greater	2	3	2	5	2
11 C Club only	3	2	5	7	3
11 CG Golf Clubs	1	1	0	0	0
Total authorized per district	30	46	49	83	39
Total authorized licenses	247				

~~(C) All approvals for allocation of various categories of alcoholic beverage licenses pursuant to this section shall expire and be deemed abandoned automatically if a state license corresponding to the above granted by this section is not obtained from the Department of Business Regulations (State of Florida), Division of Alcoholic Beverages and Tobacco, and presented to the Economic Development Department within ninety (90) days of the date of approval by the city except as otherwise provided in subsection (B) above.~~

~~(1) A higher allocation may be utilized for a lesser allocation use. COP allocations, may be utilized for the same level or lower level allocation use. A club may only be operated as a club with no sales off premises.~~

~~(2) No establishment may hold more than one (1) allocation per location unless another specific license is granted by the State of Florida and is held by said establishment. Should any establishment request and be granted a different classification, then any former classification shall be deemed abandoned upon grant of the different allocation.~~

1 ~~(D) All approvals for various categories of alcoholic~~
2 ~~beverage licenses pursuant to this section shall expire and~~
3 ~~be deemed abandoned if the business holding the approval~~
4 ~~pursuant to this section fails to renew or otherwise~~
5 ~~maintain a state license issued by the Department of~~
6 ~~Business Regulations (State of Florida), Division of~~
7 ~~Alcoholic Beverages and Tobacco, corresponding to the above~~
8 ~~granted by this section.~~

9 ~~(E) If any establishment selling or serving alcoholic~~
10 ~~beverages is either destroyed or vacated such that they are~~
11 ~~no longer selling or serving alcoholic beverages, upon~~
12 ~~learning of same, the city shall as expeditiously as~~
13 ~~possible update its records so that the allocation granted~~
14 ~~to said establishment has been released or abandoned. The~~
15 ~~city shall notify the holder of the allocation at their~~
16 ~~last known address as shown on the allocation application~~
17 ~~on file with the Economic Development Department, said~~
18 ~~notice shall be sent by certified mail at least fourteen~~
19 ~~(14) days in advance of the official release or abandonment~~
20 ~~Each application for beverage allocation shall make note of~~
21 ~~the above procedure.~~

22 ~~Unless it is shown by tangible evidence that the allocation~~
23 ~~is being utilized for the serving or selling of alcoholic~~
24 ~~beverages within a three-month period, said allocation~~
25 ~~shall be deemed abandoned or released by the City of~~
26 ~~Margate.~~

27 ~~(F) Transfers. If any business which is granted an approval~~
28 ~~pursuant to this section shall be transferred or~~
29 ~~foreclosed, the transferee or foreclosing entity shall be~~
30 ~~entitled to retain said allocation as long as all criteria~~
31 ~~for said licenses are met and the allocation is utilized at~~
32 ~~the same location.~~

33 (VIII) *Distance restrictions.*

34 (A) *Distance restrictions from a house of worship or*
35 *school.* No liquor license approval or beer and wine license
36 approval for consumption on the premises shall be issued
37 where the place of business designated in the application
38 therefore is within one thousand (1,000) feet of a house of
39 worship or a public or private school, or child care
40 center. The distance shall be measured from the main
41 entrance or front door of such house of worship or school
42 to the main entrance of such place of business in
43 accordance with subsection (IX). For any location within
44 any zone designated under any business classification to
45 which a license for the sale of liquor or beer and wine on

1 the premises has previously been issued, and which license
2 is subsisting and in use, no house of worship, nonacademic
3 school of instruction or child care center shall be
4 permitted within one thousand (1,000) feet of said
5 location. The distance shall be measured from the front
6 door of the licensee to the main entrance of the house of
7 worship, nonacademic school of instruction or child care
8 center. Any proposed use not meeting the specific distance
9 restrictions listed above shall be prohibited.

10 (B) *Distance from adult bookstore or adult motion-picture*
11 *theater.* No establishment for the sale of any alcoholic
12 beverage for consumption on the premises shall be located
13 within one thousand (1,000) feet, to be measured from front
14 door to front door of said establishment by airline route,
15 of an adult bookstore or adult motion-picture theater
16 located within or without the corporate limits of the city.

17 (C) *Distance restrictions for 2APS (beer and wine package*
18 *sales only) and 3APS (beer, wine, and liquor package sales*
19 *only).* No establishment for package sales, with either a
20 *2APS or 3APS classification,* shall be located within one
21 *thousand five hundred feet (1,500) feet of another 2APS or*
22 *3APS classified establishment.*

23 (IX) *Distance measuring generally.* Measuring distances shall
24 be from the front door of one (1) establishment to the front
25 door of the other establishment, in determining the distances
26 called for in this section, and according to the following
27 rules:

28 (1) Distance will be the result of measured length along
29 property lines abutting a street, going across the street,
30 if necessary, in any direction.

31 (2) The starting point for the existing store or location
32 will be established by drawing a line at ninety (90)
33 degrees with or to the nearest property line. The starting
34 point for the proposed store or location for an alcoholic
35 beverage license will be established by drawing a line at
36 ninety (90) degrees with or to the nearest property line of
37 that proposed location.

38 (X) *Persons to whom sale prohibited.*

39 No person licensed under the provisions of this section or of
40 state law shall give, sell, deliver, serve or permit to be
41 served any alcoholic beverages or liquors, including wines or
42 beers, as follows:

43 (1) To any person less than twenty-one (21) years of age,
44 actually or apparently.

(2) To any person who is intoxicated.

(XI) *Hours of operation, sale and consumption on the premises.*

(A) *Generally.* The hours of sale of alcoholic beverages at any establishment, except for 2APS and 3APS classifications within the City shall be 8:00 a.m. to 12:00 midnight Monday through Saturday. Hours of sale for 2APS and 3APS classification within the City shall be 7:00 a.m. to 12:00 midnight Sunday through Saturday. Sunday hours for 2COP and 4COP classifications shall be 12:00 noon to 12:00 midnight. Sunday hours for 4COP SRX and 11C classifications shall be 10:00 a.m. to 12:00 midnight. Hours for establishments with special permit for extended hours shall be as provided in subsection (B) below. Hours for establishments with Sunday morning hours permit shall be as provided in subsection (C) below.

(B) *Special permits for extended hours.* The privilege to sell, serve or permit the consumption of alcoholic beverages at any commercial establishment between the hours of 12:00 midnight and 8:00 a.m. the following day is hereby declared to be a privilege subject to termination by the City Commission, and no person may reasonably rely on the continuance of said privilege. Any establishment which has not been granted or been approved for renewal of an extended hours permit by the City Commission may not operate beyond the hours provided in subsection (A) above. Any person or business entity which sells or serves alcoholic beverages for consumption on the premises may apply for a special permit for extended hours. ~~This subsection shall not apply to those establishments governed by subsection (XII) of this section.~~

Presumption. The presence of any alcoholic beverage not within an unopened container, along with individuals who are not employees, within an establishment serving alcoholic beverages after closing hour shall be presumed the unlawful sale or service of alcoholic beverages after permitted hours.

(1) *Vendors.* A special permit granted to a vendor of alcoholic beverages shall permit said vendor to sell, serve and allow consumption of alcoholic beverages on the premises.

The hours of sale of alcoholic beverages consumed or served on the premises where a state liquor license ~~and city allocation~~ for consumption on the premises has

1 been approved, if a special permit pursuant to this
2 section has been approved, are as follows:

3 *Special permit for extended hours:*

- 4 (a) From 8:00 a.m. until 2:00 a.m. of the
5 following day, Monday through Thursday;
6 (b) From 8:00 a.m. Friday until 4:00 a.m. the
7 following Saturday;
8 (c) From 8:00 a.m. Saturday until 4:00 a.m. the
9 following Sunday;
10 (d) From 12:00 noon Sunday until 2:00 a.m. the
11 following Monday;
12 (e) On New Year's Eve, the hours of sale shall be
13 from 8:00 a.m. until 4:00 a.m. on New Year's Day;
14 (f) On March 17 (St. Patrick's Day), the hours of
15 sale shall be from 8:00 a.m. until 4:00 a.m. on
16 March 18; and

17 Extended hours shall not be permitted for sale at retail
18 as package goods or for any other reason than
19 consumption on the premises.

- 20 (C) *Sunday morning hours permit.* Establishments with a 2COP
21 or 4COP alcohol allocation that wish to serve alcohol
22 before noon on Sunday may apply to the City Commission
23 for a Sunday morning hours permit.

24 *Sunday morning hours permit:*

- 25 (a) Starting at 10:00 a.m. on Sunday, as an
26 accompaniment to a full-course meal. If it is
27 determined that alcohol is being served without food,
28 then the Sunday morning hours permit shall be subject
29 to revocation.

30 ~~Extended hours shall not be permitted for sale at~~
31 ~~retail as package goods or for any other reason than~~
32 ~~consumption on the premises.~~

- 33 (D) *Approval process and criteria for special permit for*
34 *extended hours permit and Sunday morning hours permit.*
35 The following criteria for granting, applying and
36 renewing a special permit for extended hours and/or a
37 Sunday morning hours permit:

38 (1) *Criteria for granting.* Each special permit for
39 extended hours and each Sunday morning hours permit
40 shall expire on September 30 of each year or upon the

1 change in ownership or location of any permitted
2 establishment. The City Clerk shall place all
3 applications for such permits on the agenda for the
4 first regular Ceity Ceommission meeting to be held in
5 September, or as soon thereafter as may be heard, and
6 shall notify all qualified applicants of the place which
7 their applications will be heard. All initial
8 ~~applications which are made pursuant to this section two~~
9 ~~(2) weeks prior to September 30 of each year may be~~
10 ~~considered by the City Commission on an individual basis~~
11 ~~and if granted shall expire on September 30 of each~~
12 ~~year.~~

13 All applications for transfer of ownership or location
14 shall be deemed initial applications. However,
15 applications for transfer of ownership or locations
16 shall be automatically approved for a temporary period
17 of thirty-five (35) days from the date of either the
18 initial opening of an establishment serving alcoholic
19 beverages or date transfer of ownership or location
20 occurs.

21 At the end of the thirty-five (35) days proceeding,
22 establishments shall be prohibited from serving
23 alcoholic beverages except by permission of the City
24 Commission pursuant to subsections (XI)(B) and (C).

25 The City Commission may grant or deny such special
26 permits for extended hours or Sunday morning hours
27 permit.

28 The criteria which the City Commission shall consider in
29 making a decision whether to grant or deny a special
30 permit for extended hours to an applicant shall be as
31 follows:

32 (a) The amount of parking demands created by the
33 establishment being considered, especially with
34 regard to the adverse impact on adjacent residential
35 areas or any illegal or hazardous parking, and
36 whether the establishment being considered meets the
37 criteria for current parking.

38 (b) The amount and degree of law and code
39 enforcement activities being generated by the
40 establishment being considered, both inside and
41 outside the location, with emphasis on vandalism,
42 noise, vehicular use by patrons and illegal activity
43 of any kind by employees (including municipal
44 violations), patrons and others associated with the

1 establishment during and immediately after the hours
2 of operation.

3 (c) The adverse effect, if any, that the
4 establishment will have on the neighboring
5 properties, especially with respect to the effects
6 of noise, parking, glare from headlights or exterior
7 lighting on neighborhood residential properties.

8 (d) That an establishment be wholly enclosed,
9 soundproofed and air conditioned, and any windows,
10 doors or other openings kept closed except for
11 normal and emergency ingress and egress, in order
12 that noise and music emanating therefrom will not
13 disturb the peace and quiet of the neighborhood.

14 (e) Those criteria specified in the City Code.

15 (f) Conformance with property maintenance
16 standards and municipal codes directly related to
17 the establishment requesting extended hours.

18 The criteria which the City Commission shall consider in
19 making a decision whether to grant or deny a Sunday
20 morning hours permit to an applicant shall be as
21 follows:

22 (a) That any alcohol served on Sunday between
23 10:00 a.m. and 12:00 noon shall only be served as an
24 accompaniment to a full course meal.

25 (b) The amount and degree of law and code
26 enforcement activities being generated by the
27 establishment being considered, both inside and
28 outside the location, with emphasis on vandalism,
29 noise, vehicular use by patrons and illegal activity
30 of any kind by employees (including municipal
31 violations), patrons and others associated with the
32 establishment during and immediately after the hours
33 of operation.

34 (2) *Applications.* Any person, vendor or place of business
35 which has been regularly licensed by the State of
36 Florida to sell and dispense alcoholic beverages may
37 apply for a special permit for extended hours. Any
38 person, vendor or place of business which offers food
39 service and has been regularly licensed by the State of
40 Florida to sell and dispense alcoholic beverages with a
41 2COP or 4COP allocation may apply for a Sunday morning
42 hours permit. Any person, vendor or place of business
43 desiring a special permit for extended hours or a Sunday
44 morning hours permit shall file with the Ccity Celerk a

1 typewritten or printed application ~~to conduct business~~
2 ~~at a specified location. Such application shall be made~~
3 ~~upon the~~ on forms provided by the City. Such
4 application, among other things, shall state the
5 location where such business is to be conducted; the
6 name of the applicant together with the names of the
7 individuals operating a business under their own or
8 under a trade name; the names of the officers or members
9 of the firms engaged in any such business; the names of
10 all individuals or business entities owning five (5) per
11 cent or more of the assets of a business (excluding
12 publicly owned corporations); the type of business
13 license issued by the State of Florida and the number
14 thereof. The applicant shall also furnish such other
15 information as may be deemed reasonable by the City and
16 shall pay the necessary license fee together with one
17 hundred fifty dollars (\$150.00) application fee. No
18 application may be deemed completed until the
19 requirements of this paragraph are met.

20 The City Commission may require, as a condition of the
21 privilege of extending hours of operation, compliance
22 with any reasonable conditions deemed by the commission
23 to be necessary to mitigate or eliminate the adverse
24 effects of such extended hours. These conditions may
25 include, without being limited to, provision by the
26 owner or operator of the premises to provide at his
27 expense additional off-street parking, security
28 personnel, off-duty police personnel, screening and
29 buffering from nearby properties. The City Commission
30 may also require a cash bond in an amount they deem
31 appropriate, but not in excess of two thousand five
32 hundred dollars (\$2,500.00) to ensure that the
33 conditions which have been required are faithfully
34 performed. No bond as provided herein will be forfeited
35 unless a hearing before the Ceity Ceommission is held
36 and it is determined that the conditions which have been
37 required have not been performed.

38 The granting of a special permit to a particular
39 licensee has been and continues to be a privilege
40 subject to modification or termination by the City
41 Commission each year at renewal time, and no person may
42 reasonably rely on a continuation of that privilege.

43 The licensee shall be deemed the owner of an
44 establishment for which application has been made and
45 any transfer of ownership or location shall necessitate
46 a new application to be made pursuant to this section.

1 Should an establishment owned by an entity transfer five
2 (5) per cent or more of its assets, said transfer shall
3 be deemed to be a transfer of ownership, pursuant to
4 this section ~~— . (This shall exclude~~ publicly owned
5 corporations.)

6 (3) *Renewals.* The renewal of any special permit shall be
7 determined by the City Commission in the manner
8 specified in subsection (2) above. ~~All applications for~~
9 ~~renewal shall be as provided in [subsection] (2) above.~~
10 Applications shall be received by July 15 of each year.
11 Completed applications for renewal which are not
12 received by the City Commission by July 15 of each year
13 shall pay a fee of three hundred dollars (\$300.00).

14 If prior to renewal time the city administration
15 determines that any licensee has either violated a
16 condition of renewal or is operating in a manner harmful
17 to the public health, safety or welfare based upon the
18 criteria specified in subsection (2) above, it may place
19 on the City Commission agenda the matter of revoking the
20 special permit issued. Such agenda items shall be
21 publicly advertised in a newspaper of local circulation,
22 and written notice of the charges against the licensee
23 shall be sent to him at least fourteen (14) days in
24 advance and shall also contain the day, time and place
25 of such agenda item.

26 After consideration of the matter and allowing the
27 licensee to be heard, the City Commission may revoke,
28 modify or condition the special permit. The criteria to
29 be used by the administration and City Commission in
30 such matters shall be the criteria specified in
31 subsection (2) above. Should the license or privilege be
32 revoked, conditioned or modified, the licensee may seek
33 review of such action, after three (3) months, before
34 the City Commission. The commission may then modify or
35 refuse to modify its action. Only one (1) such review
36 shall be given within a twelve-month period.

37 No person, vendor or distributor of any place of
38 business licensed under the provisions of this section
39 or by the State of Florida, or any employee thereof,
40 shall permit any person who is not a proprietor,
41 licensed vendor or employee thereof to remain on the
42 licensed premises beyond the legally authorized closing
43 hour; provided however, if said premises are divided so
44 that the portion of said premises where alcoholic
45 beverages are kept, stored or dispensed is segregated by

1 partition and locked doors after the legal hour, then
2 such prohibition shall not apply.

3 (XII) *Reserved.*

4 (XIII) *Violations declared, prohibited; penalty.*

5 It shall be unlawful for any person, firm or corporation to
6 violate any of the provisions of this section or the state
7 beverage laws incorporated herein; and said violation is
8 declared to be a misdemeanor of the second degree, punishable
9 as otherwise provided in the Florida Statutes.

10 (XIV) *Right of commission to recommend revocation and*
11 *suspension of state licenses to state beverage department.*

12 The Ceity Ceommission retains the right to recommend to the
13 state beverage department the revocation or suspension of any
14 license upon cause appearing to the violation by any licensee
15 of any of the laws of the State of Florida or of the United
16 States or of any of the provisions of this section or
17 ordinances of the Ceity or of his maintaining a nuisance or
18 unsanitary premises, disorderly conduct on the premises where
19 such beverage business is conducted, or permitting loud and
20 boisterous noises to be made or loud and disturbing music to
21 be played on said premises.

22 (XV) *Exceptions to section provisions.*

23 The following exceptions are made from the terms of this
24 section or subsections as referred to:

25 (1) Vendors holding licenses for off-premises sales of beer
26 or malt beverages, ~~shall not be subject to the distance~~
27 ~~restrictions contained in subsection (VIII) of this section.~~

28 ~~(2) Vendors holding licenses for off-premises sale of wine,~~
29 fortified wine or beverages made of fresh fruits, berries
30 or grapes, either by natural fermentation or by natural
31 fermentation with brandy added, including all sparkling
32 wines, champagnes, combinations of the aforesaid beverages,
33 vermouths and like products, shall not be subject to the
34 distance restrictions contained in subsection (VIII) of
35 this section.

36 The exemption from distance regulations granted by this
37 subsection shall not, however, permit the issuance of
38 alcoholic beverage licenses to those persons or places or
39 establishments excepted, where said establishment is
40 located in a zoning district as defined in the zoning
41 classification ordinances of the city, unless said
42 establishment qualifies as a previously existing
43 nonconforming use in that district.

(XVI) Reserved ~~Applicability of section provisions to bottle clubs.~~

~~Except as where specifically exempted, bottle clubs shall comply with all subsections of this section.~~

(XVII) *Prohibition of minors.*

(1) Definitions.

Establishment whose primary business is the sale and consumption of alcoholic beverages: A business where consumption of alcoholic beverages on the premises is permitted and where the sale of alcoholic beverages amounts to fifty (50) per cent or more of the gross receipts of the business in any given month.

Adult: An individual over the age of twenty-one (21) years.

Minor: An individual under the age of twenty-one (21) years.

(2) Minors unaccompanied by an adult are prohibited from entering establishments whose primary business is the sale and consumption of alcoholic beverages.

(3) In establishments whose primary business is not for the sale and consumption of alcoholic beverages, but where an area has been set aside or separated for the sale of alcoholic beverages, minors are prohibited from entering said area unless accompanied by an adult.

(XVIII) *Nuisance abatement related to establishments serving alcoholic beverages.*

(1) Any place or premises serving alcoholic beverages pursuant to this chapter [appendix] may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section. The violations constituting a nuisance are as follows:

(a) On more than two (2) occasions within a six-month period as a site of a violation of F.S. § 796.07;

(b) On more than two (2) occasions within a six-month period as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(c) On one (1) occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been

1 previously used on more than one (1) occasion as the
2 site of the unlawful sale, delivery, manufacture, or
3 cultivation of any controlled substance;

4 (d) By a criminal street gang for the purpose of conducting
5 a pattern of criminal street gang activity as defined
6 by [F.S.] § 874.03; or

7 (e) On more than two (2) occasions within a six-month
8 period as the site of a violation of F.S. § 812.019
9 relating to dealing in stolen property.

10 (2) An administrative board composed of the Ceity
11 Ceommission is hereby empowered to hear complaints regarding
12 nuisances described in subsection (1). The administration of
13 the Ceity may bring a complaint before the Ceity Ceommission
14 after giving not less than three (3) days' written notice of
15 such complaint to the owner of the place or premises at his
16 or her last known address. After the hearing, in which the
17 Ceommission may consider any evidence, including evidence of
18 the general reputation of the place or premises, and at which
19 the owner of the premises or place shall have an opportunity
20 to present evidence in his or her defense, the Ceommission
21 may declare the place or premises to be a public nuisance as
22 described in subsection (1).

23 (3) If the City Ceommission declares the place or premises
24 to be a public nuisance, it may enter an order requiring the
25 owner of such place or premises to adopt such procedures as
26 may be appropriate under the circumstances to abate any such
27 nuisance, or it may enter an order immediately prohibiting:

28 (a) The maintaining of the nuisance;

29 (b) The operating or maintaining of the place or
30 premises, including the closure of the place or premises;
31 or any part thereof; or

32 (c) The conduct, operation or maintenance of any
33 business or activity on the premises which is conductive
34 to such nuisance.

35 (4) An order entered under subsection (3) shall expire
36 after one (1) year or at such earlier time as is stated in
37 the order.

38 (5) An order entered under subsection (3) may be enforced
39 pursuant to the procedure contained in F.S. § 120.69.
40 However, no other section of F.S. chapter 120 shall be
41 applicable.

(6) The Ceity may bring a complaint under F.S. § 60.05 seeking temporary and permanent injunctive relief against any nuisance described in subsection (1).

(7) As used in this subsection (XVIII), the term "controlled substance" includes any substance sold in lieu of a controlled substance in violation of F.S. § 817.563, or any imitation controlled substance defined in F.S. § 817.564.

(8) The City Ceommission, upon a hearing and appropriate finding, may provide:

(a) For imposition of a fine on the establishment or place declared a nuisance, not to exceed two hundred fifty dollars (\$250.00) per day;

(b) Reasonable costs, including reasonable attorney's fees associated with investigations and hearings for public nuisances;

(c) Continuing jurisdiction for a period of one (1) year over any place or premises that has been declared to be a public nuisance;

(d) Fines for recurring violations may be made up to and including five hundred dollars (\$500.00) per day.

Orders of the Ceommission pursuant to this section shall be reduced to writing. The Ceity Celerk, upon the order of the Ceity Ceommission, shall record a certified copy of the order of the Ceity Ceommission with the public records of Broward County. Recorded orders on public nuisances shall become liens against the real property that is subject to the order. Upon order of the Ceity Ceommission, the lien may be foreclosed subject to a lien with recoverable costs including reasonable attorneys' fees associated with the recording of orders and foreclosure.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are and the same is hereby repealed to the extent of such conflict.

SECTION 3: If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4: It is the intention of the City Commission that the provisions of this ordinance shall become

1 and be made a part of the City of Margate Code, and that the
2 sections of this ordinance may be renumbered or relettered
3 and the word "ordinance" may be changed to "section",
4 "article" or such other appropriate word or phrase in order
5 to accomplish such intentions.
6

7 **SECTION 5:** This ordinance shall become effective
8 immediately upon adoption at its second reading.
9

10 PASSED ON FIRST READING THIS _____ DAY OF _____ 2016.

11 PASSED ON SECOND READING THIS _____ DAY OF _____ 2016.

12 ATTEST:

13
14 _____
15 JOSEPH J. KAVANAGH
16 CITY CLERK
17

MAYOR TOMMY RUZZANO

18
19 RECORD OF VOTE - 1ST READING RECORD OF VOTE - 2ND READING
20

21 Simone _____
22 Peerman _____
23 TBD _____
24 TBD _____
25 Ruzzano _____
26

Simone _____
Peerman _____
TBD _____
TBD _____
Ruzzano _____
27
28
29
30
31
32
33
34